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GUIDELINES ON SCHEDULING AND MANAGEMENT OF PUBLIC HEARINGS AT THE TRIAL STAGE WITH THE NEW CRIMINAL PROCEDURE CODE

Best practices in corporate management
model at the Judiciary
PRODUCT N° 43

November 2014

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EXECUTIVE SUMMARY

Peru's criminal justice system has achieved significant progress in terms of clarity and transparency since July 1, 2006, when the new Criminal Procedure Code – CPC started to be implemented in the country. Unlike the Code of 1940, the new CPC has contributed to a decrease in the average duration of criminal processes. In certain cases provided by the code, some processes may conclude in advance, without having to go through all procedural stages.

As is stated in the report of assessment and identification of improvements in the corporate management model, prepared by the Pro-Integridad Project in February 2014, in spite of the progress achieved, the Judiciary still faces challenges to attain the guiding principles of the new criminal procedure (clarity, immediacy, verbal presentation, and publicity). In terms of the corporate management model, it is necessary to improve areas such as scheduling and management of public hearings and caseload management. In that sense, the Pro-Integridad Project has planned to provide technical assistance to the Judiciary in both areas as provided for in Objective 1, Result 1.1 of the Project:

- Objective 1:
Increase the capacity of the judicial system to resolve corruption cases in Lima, Callao, and the judicial districts in the Peruvian Amazonia.
- Result 1.1:
Increased capacity of judges and court staff in targeted regions to manage and resolve corruption cases.

From September to November 2014 Pro-Integridad provided support to the Technical Secretariat of the Institutional Technical Team for the Implementation of the new Criminal Procedure Code - ETI-CPP by its initials in Spanish – to develop guidelines on scheduling and management of public hearings at the trial stage with the new CPC. Those guidelines focus on the trial stage because difficulties occur more frequently there than in the other stages of the criminal procedure (investigation, intermediate stage and appeal). The report on the trial stage guidelines is based on the inputs indicated below:

- Analysis of statistics on jurisdictional production and hearings provided by the Technical Secretariat of ETI-CPP.
- Best practices shared by judges and administrative staff of the Judiciary (Technical Secretariat of ETI-CPP and Superior Courts of Huaura, Lambayeque and Moquegua).
- Study tour to Costa Rica's Judiciary carried out in November 2014 by the Project Pro-Integridad, which covered the best practices on scheduling and management of public hearings at the Judicial System of San José (Guadalupe).
- Analysis of experiences of Latin American countries. Besides regulations to schedule trials in Costa Rica, Pro-Integridad analyzed protocols on scheduling of hearings in the provinces of Buenos Aires and Neuquén in Argentina, and protocols used by the Unit of Public Hearings Management in Nicaragua.

The guidelines prepared with technical assistance of Pro-Integridad cover the issues and are oriented to achieve the results indicated below:

Areas of improvement	Issues	Expected results
Public hearings scheduling and	<ul style="list-style-type: none">• Estimation of trial duration• Distribution of hearings into judge's	<ul style="list-style-type: none">• Contribute to improve scheduling and management

Areas of improvement	Issues	Expected results
management	agenda <ul style="list-style-type: none"> • Criteria to set up hearings • Cancellation and rescheduling of hearings • Trials in prisons • Notifications and summons • Participation of Hearings Specialists • Monitoring of hearings scheduling 	of public hearings at the trial stage, expressed in a greater number of trials initiated and concluded.
Caseload management	<ul style="list-style-type: none"> • Caseload distribution • Monitoring of targets and standards 	<ul style="list-style-type: none"> • Promote an equitable distribution of the complex causes • Contribute to an increased production capacity of trial courts.

As coordinated with Judiciary's Technical Secretariat of ETI-CPP, the next step is to carry out training workshops and to implement the guidelines at the pilot sites of Pro-Integridad. Then the best practices may scale up to the other criminal procedure stages.

TABLE OF CONTENTS

STATEMENT OF REASONS FOR THE GUIDELINES 2

1. OBJECTIVE 4

2. GOAL 4

3. SCOPE 4

4. LEGAL REFERENCES 4

5. GUIDELINES 4

6. FINAL AND COMPLEMENTARY GUIDELINES..... 8

STATEMENT OF REASONS FOR THE GUIDELINES

Peru's criminal justice system has achieved significant progress in terms of clarity and transparency since July 1, 2006, when the new Criminal Procedure Code – CPC started to be implemented in the country. Unlike the Code of 1940, the new CPC has contributed to decrease the average duration of criminal processes. In certain cases provided by the code, some processes may conclude in advance, without having to go through all procedural stages.

Public hearings at the trial stage with the new CPC occupy a central place in the criminal procedure due to two main reasons. First, public hearings make possible to attain the guiding principles of the new procedure (clarity, immediacy, verbal presentation, and publicity). Second, courts' production, expressed in the number of judgments and final decisions issued by judges, depends directly on the number of public hearings concluded. In conclusion, it is critical to improve scheduling and management of public hearings in order to increase jurisdictional production. By doing that, courts will be able to reach production standards set by the Executive Council of the Judiciary.

Notwithstanding the progress achieved, the Judiciary still faces challenges to attain the guiding principles of the new procedure. In terms of scheduling and management of public hearings and caseload management, it is necessary to improve the procedures in place, so courts production capacity can also increase. According to statistics of 2013 issued by the Technical Secretariat of the Institutional Technical Team for the Implementation of the new Criminal Procedure Code, only 72 of 385 courts working with the new CPC in the country (18.7%) complied with production standards set by the Executive Council of the Judiciary by means of the Administrative Resolution N° 174-2014-CE-PJ, as shown in the following chart:

Compliance with jurisdictional production standards with the new CPC in Peru – 2013

Type of court	Total N° of courts		Compliance		Non compliance	
	N°	%	N°	%	N°	%
Investigation court	186	100%	43	23.1%	143	76.9%
Trial court (Single judge)	159	100%	19	11.9%	140	88.1%
Trial court (Three judges)	6	100%	0	0.0%	6	100.0%
Appeals chamber	34	100%	10	29.4%	24	70.6%
Total	385	100%	72	18.7%	313	81.3%

Source: Technical Secretariat of the ETI-CPP of the Judicial Branch.

The chart above reveals that only 11.5% of trial courts complied with the production standard (11.9% of one-judge trial courts and 0% of three-judge trial courts), which is considerably a smaller percentage than those achieved by investigation courts (23.1%) and appeals chambers (29.45%).

For that reason, the Technical Secretariat of ETI-CPP has been working on identifying the causes preventing the courts from complying with production standards as well as designing strategies to increase the courts' production capacity. In the first phase ETI-CPP will focus on the trial stage, where the greatest difficulties occur, and then they will go through the other stages of the criminal procedure.

As a result, the Technical Secretariat of ETI-CPP has identified the inefficient public hearings scheduling and management as the main contributing cause of substandard production at trial courts. In response to that situation, ETI-CPP has identified and systematized the best practices applied by country's trial courts working with the new CPC as well as successful international experiences, and has developed guidelines aimed at improving public hearings scheduling and management at the trial stage and increasing production capacity of trial courts.

The guidelines include provisions on: caseload distribution; estimation of trial duration; scheduling; cancellation and rescheduling; trials in prisons; monitoring of hearings scheduling; notifications and citations; participation of Hearing Specialists; and preparation of the minutes, among other issues.

The expected result of the implementation of the guidelines is that scheduling and management of public hearings at the trial stage will allow courts to comply with production standards and targets set by the Executive Council of the Judiciary. The objective of the guidelines is to contribute to the achievement of increased clarity and jurisdictional production at trial courts.

The progress and results obtained from the application of the guidelines at the trial stage, which will be monitored by the Technical Secretariat of ETI-CPP, will provide the basis for the preparation of technical documents applicable to the other stages of the criminal procedure (investigation, intermediate stage and appeal).